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6 | Attorneys for Defendant Pamela Zimba

10 CHRISTINE CHANG, Individually and as ) Case No.: C 07 4005 EMC  
11 Guardian Ad Litem for ERIC SUN, disabled, )  
12 Plaintiff, ) DEFENDANT PAMELA ZIMBA'S  
13 vs. ) SEPARATE CASE MANAGEMENT  
14 ) CONFERENCE STATEMENT  
15 ROCKRIDGE MANOR CONDOMINIUM, ) Date: November 7, 2007  
16 et al., ) Time: 1:30 p.m.  
16 Defendants. ) Room: Courtroom C  
Complaint Filed: August 3, 2007

17 Defendant Pamela Zimba submits the following separate Case Management Conference  
18 Statement:

## 19 | 1. Jurisdiction and Service

20 Ms. Zimba contends that the Court does not have subject matter jurisdiction over plaintiff's  
21 claims, as they do not pose any substantial federal question. Defendant intends to file a motion to  
22 dismiss with respect to that contention. Defendant is unaware of any other issues concerning  
23 personal jurisdiction and venue, and does not know whether any other named defendant has yet to  
24 be served.

## 25 | 2. Facts

26 Ms. Zimba is an attorney. She was one of several attorneys who represented Ms. Chang  
27 and Mr. Sun as plaintiffs in two Alameda County Superior Court actions, *Christine Chang, et al.*  
28 *al. v. Constance Celaya*, Alameda County Superior Court #2002-048048 and *Christine Chang, et*

1 *al. v. Eva Amman, et al.*, Alameda County Superior Court #2001-023364, both of which were  
2 resolved in 2004. In the instant action, Ms. Chang – acting for herself and as guardian ad litem  
3 for Mr. Sun, her disabled adult son – charges that all of those attorneys, including Ms. Zimba,  
4 acted inappropriately and/or negligently in the course of those underlying matters, apparently with  
5 the result that the *Celaya* action resulted in a judgment for Ms. Celaya, while the *Amman* action  
6 was settled for \$36,000. Ms. Zimba denies those charges.

7 3. Legal Issues

8 Ms. Chang's Complaint raises legal issues regarding lack of subject matter jurisdiction and,  
9 in several instances, failure to state a sufficient factual basis for a claim. The Complaint also raises  
10 substantial issues regarding plaintiff's compliance with California Code of Civil Procedure §335.1,  
11 the state statute of limitations applicable to her causes of action for violation of civil rights (causes  
12 of action 1 and 4) and malicious prosecution/abuse of process (cause of action 2). All of these  
13 issues will be addressed in the motion to dismiss that Ms. Zimba expects to file prior to the Case  
14 Management Conference. That motion will also request a more definite statement with respect to  
15 the fraud claims contained in plaintiff's fifth cause of action.

16 As to Ms. Zimba, Ms. Chang's pleadings also raise substantial legal issues regarding her  
17 compliance with California Code of Civil Procedure §340.6, the state statute of limitations  
18 applicable to her cause of action for negligence (cause of action 3). Ms. Zimba expects to address  
19 those issues at some later point in the litigation.

20 4. Motions

21 As noted, Ms. Zimba expects to have a motion to dismiss/for a more definite statement on  
22 file prior to the initial Case Management Conference. In the future, Ms. Zimba will likely file a  
23 motion for judgment on the pleadings and/or summary judgment with respect to any causes of  
24 action that survive the motion to dismiss.

25 5. Amendment of Pleadings

26 Because she anticipates filing a motion to dismiss, Ms. Zimba has not yet filed an Answer  
27 to plaintiff's Complaint. Accordingly, Ms. Zimba is unable to state whether she will be called  
28 upon to file an Answer and/or to anticipate what amendments, if any, might be necessary at later

1 stages of the case.

2 6. Evidence Preservation

3 Ms. Zimba transferred her paper files regarding the two underlying Alameda County  
4 lawsuits to Ms. Chang when she ceased representing Ms. Chang and Mr. Sun in those actions, and  
5 did not keep paper copies of their contents. To the extent Ms. Zimba used her office computer  
6 system to generate correspondence, pleadings, etc. with respect to those files, she has preserved  
7 those electronic files, and will continue to do so.

8 7. Disclosures

9 As of this writing, Ms. Zimba and her counsel have not received any disclosures from Ms.  
10 Chang or any other litigant. Given that Ms. Chang is appearing in pro per, and is apparently  
11 generally unaware of her obligations under Rule 26, Ms. Zimba and her counsel respectfully  
12 request the Court to inform her of those obligations and, in turn, set a date for all participating  
13 parties to make the required disclosures.

14 8. Discovery

15 If the Court denies defendants' motions with respect to the jurisdictional issues, Ms. Zimba  
16 will commence written discovery against Ms. Chang by issuing interrogatories and demands for  
17 production of documents, including the legal files with respect to the *Celaya* and *Amman* cases,  
18 and cooperate with other defendants in noticing and proceeding with appropriate depositions. Ms.  
19 Zimba notes that the nature of plaintiff's claims against her may require her to depose various  
20 witnesses to the events involved in the two underlying actions.

21 9. Class Actions

22 This is not a class action.

23 10. Related Cases

24 Ms. Zimba and her counsel are not aware of any pending related cases.

25 11. Relief

26 In the unlikely event that Ms. Chang is able to prevail against Ms. Zimba on any claim or  
27 cause of action, her damages would be calculated by (1), determining what she and Mr. Sun would  
28 have recovered in the underlying actions but for Ms. Zimba's alleged misconduct and (2),

1 subtracting from that sum the thirty-six thousand dollars (\$36,000) they did recover from the  
2 defendants in the *Amman* case. In making that determination, plaintiff would not only have to  
3 show that appropriate prosecution of one or both of those actions would have led to a judgment in  
4 her favor and/or in favor of Mr. Sun, but also that such a judgment would have been collectible  
5 from the hypothetical judgment debtor(s).

6 12. Settlement and ADR

7 Because this case is still at its very early stages, and given that plaintiff is in pro per, it is  
8 difficult for counsel to comment on the likelihood of settlement or the utility of specific ADR  
9 methodologies. However, counsel anticipates that the case might benefit from neutral evaluation  
10 shortly after the Court has heard and ruled on defendants' initial pleading motions.

11 13. Consent to Magistrate Judge for All Purposes

12 Ms. Zimba does consent to the Court's reference of this matter to Magistrate Judge Chen  
13 for all purposes, and will file her Consent to Proceed Before a United States Magistrate Judge with  
14 this Statement.

15 14. Other References

16 Ms. Zimba and her counsel do not presently believe that this case is suitable for binding  
17 arbitration, use of a special master or reference to the Judicial Panel on Multidistrict Litigation.

18 15. Narrowing of Issues

19 Counsel expects that the upcoming motions to dismiss should substantially narrow the  
20 issues raised by plaintiff's claims.

21 16. Expedited Schedule

22 With a pro per plaintiff and more than a dozen named defendants, this case does not  
23 presently appear likely to lend itself to the setting of an expedited schedule.

24 17. Scheduling

25 Ms. Zimba generally concurs with the scheduling proposal made in co-defendant  
26 Coombes' Case Management Statement, but would prefer that the trial be set for February 2009 or  
27 thereafter.

28 ///

1 18. Trial

2 Plaintiff has requested a jury trial.

3 19. Disclosure of Non-Party Interested Parties or Persons

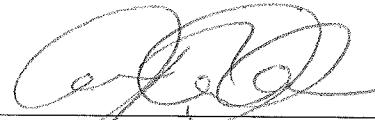
4 Ms. Zimba is being defended by her errors and omissions carrier, Greenwich Insurance  
5 Co., a subsidiary of XL America Companies.

6 20. Other Matters

7 Ms. Zimba notes that while Ms. Chang is certainly entitled to represent herself as an  
8 individual plaintiff in the instant action, she is prohibited from appearing in pro per in her capacity  
9 as guardian ad litem for her disabled son, Eric Sun. See, e.g., *Johns v. County of San Diego* (9<sup>th</sup>  
10 Cir. 1997) 114 F.3d 874.

11 DATED: November 1, 2007

12 BOORNAZIAN, JENSEN & GARTHE  
13 A Professional Corporation

14 By: 

15 ANDREW R. ADLER, ESQ.  
16 Attorneys for Defendant  
17 Pamela Zimba, Esq.

25168/417975

**PROOF OF SERVICE BY MAIL  
(C.C.P. SECTIONS 1013(a) -2015.5)**

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P.O. Box 12925, Oakland, California 94604-2925.

I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the date indicated below, at the above-referenced business location, I sealed envelopes, enclosing a copy of the DEFENDANT PAMELA ZIMBA'S SEPARATE CASE MANAGEMENT CONFERENCE STATEMENT, addressed as shown below, and placed them for collection and mailing following ordinary business practices to be deposited with the United States Postal Service on the date indicated below:

Ms. Christine Chang  
341 Tideway Drive, #214  
Alameda, CA 94501  
Tel: 510-769-8232

Plaintiff In Pro Per

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on November 1, 2007.

Dr

LESLIE HASSBERG